as in the principal case, the legislature creates an office and provides that its incumbent shall exercise powers some of which are of local and some of state-wide concern, there is authority for adjudging the whole act invalid. *City of Evansville* v. *State ex rel.*, 118 Ind. 426, 4 L. R. A. 93.

NEGLIGENCE—PARENT'S NEGLIGENCE NOT IMPUTED TO CHILD.—The plaintiff, a three-year-old infant, was maimed by the dangerous alluring machinery of the defendant company, around which she was accustomed to play. Her father was manager of the defendant company, resided with her upon the premises and knew of her habit of playing near the uncovered machinery. *Held*, that the parent's negligence could not be imputed to the child, since the child is not responsible for the negligence of its parents. *Clover Creamery Co.* v. *Diehl* (Ala. 1913) 63 So. 196.

The decision in the principal case represents the trend of modern decisions and the weight of authority. *Neff* v. *City of Cameron*, 213 Mo. 350, 18 L. R. A. N. S. 320; *Union Pac. Ry. Co.* v. *Young*, 57 Kan. 168, 45 Pac. 580; *City of Murphyboro* v. *Woolsey*, 47 Ill. App. 447. In the extensive note in 18 L. R. A. N. S. 320 the annotator declares that since 1892 the decisions in nearly all the states except New York (which continues to follow *Hatfield* v. *Roper*, 21 Wend. 615, 34 Am. Dec. 273) have been in favor of the doctrine of the principal case. Cases appearing to announce a contrary rule are *Holly* v. *Boston Gas Light Co.*, 74 Mass. 123, 69 Am. Dec. 233, and *Leslie* v. *City of Lewiston*, 62 Me. 468. See 4 MICH. L. REV. 79, 167; 9 ID. 165.

RAILROADS—INJURIES TO TRESPASSERS—CARE AFTER INJURY.—Decedent, while riding on one of defendant's freight trains, was thrown off and received serious injury. While utterly helpless and bleeding profusely, he was placed by defendant's agents and servants, over his protest, in an unheated box car, where he was allowed to remain without medical attention or other care for about four hours, and in consequence of such exposure and negligence he bled to death before reaching a hospital to which he was subsequently taken. *Held*, that, though defendant was not liable for the original injury, its servants having assumed control over decedent over his protest and with knowledge of his imminent peril, their conduct amounted to wanton negligence in decedent's treatment, for which defendant was liable. *Slater* v. *Illinois Cent. R. Co.* (C. C. Tenn. 1913) 209 Fed. 480.

The authorities generally agree that a railroad company, free from negligence in injuring a trespasser, cannot be made liable on the ground that its servants were negligent in caring for him after the accident. The railroad company is under no legal obligation—however strong the moral obligation—to take charge of the wounded man. If the law were otherwise "no humane or gratuitous act could be done without subjecting the doer of it to an action on the ground that the defendant ought to have acted more quickly or with more judgment." *Union Pac. R. Co.* v. *Capper*, 66 Kans. 649; *Griswold* v. *Boston etc. R. R. Co.*, 183 Mass. 434; *Kendall* v. *Louisville & N. R. Co.*, 25 Ky. Law Rep. 793; Contra; *Northern C. R. Co.* v. *State*, 29 Md. 420; *Baltimore & O. R. R. Co.* v. *State*, 41 Md. 268; *Whitesides* v. *Southern R. Co.*,

128 N. C. 229. But in the principal case, as the court points out, the question is not whether the company is liable for not taking care of an injured trespasser, but whether, after assuming control of the injured person, they are bound to take care of him and see that proper medical attention is secured. In determining this question the court adopts the holding in the case of *Dyche* v. *Railroad Co.*, 79 Miss. 361, that where a railroad company had injured a trespasser under such circumstances that it could not be held liable for the original injury, if it assumed charge of the injured person when in a helpless condition and shipped him to another place from that at which he had been injured, it was charged with the duty of ordinary humanity in taking care of him while he was thus in its charge. See *Needham* v. *S. F. & S. J. R. Co.*, 37 Cal. 409. The Massachusetts court in the case of *Griswold* v. *Railroad Co.*, supra, criticises the *Dyche* case, supra, as not proceeding on strict legal theory. Nevertheless it seems that it may well be justified under the principle laid down by Chief Justice KENT in the case of *Thorne* v. *Deas*, 4 Johns. 84, that "if a party who makes an engagement (the gratuitous performance of business for another), enters upon the execution of the business, and does it amiss, through the want of due care by which damage ensues to the other party, an action will lie for the misfeasance." And again it is said that "the confidence induced by undertaking any service for another is a sufficient legal consideration to create a duty in the performance of it." 1 SMITH'S LEADING CASES, 82. The question might well arise in a case like the one under consideration whether the tortious conduct of the agents and servants was so within the scope of their duties and employment as to charge the master for the resulting injury. In the solution of this problem it is material to note the observations of an eminent text writer, "The extent of the liability of railways for the acts of their agents and servants, both negative and positive, seems not very fully settled in many of its incidents. But the disposition of the courts has been to give such agents and servants a large and liberal discretion, and hold the companies liable for all their acts, within the most extensive range of their charter powers." 1 REDFIELD, RAILWAYS, 510.

RIGHT OF PRIVACY—INTERPRETATION OF THE NEW YORK STATUTE.—The plaintiff had been a wireless-telegraph operator on the vessel Republic, and after a collision between the Republic and another ship, summoned help by the use of the wireless. The defendant, a corporation engaged in making films for use in moving picture machines, produced films purporting to portray the circumstances attending the disaster. This was done by constructing scenes to represent the events which took place, employing actors to take the parts of the actual participants. One of these actors was made up to imitate the plaintiff, and in one scene appeared alone, unconnected with any of the events of the accident; plaintiff's name was used several times in the film and also in advertising circulars. Plaintiff applied for an injunction and damages under the Civil Rights Law (Consol. Laws c. 6) §§ 50 and 51. Defendant claimed, inter alia, that this was not a picture of the plaintiff but of another individual who merely represented the plaintiff. *Held*, a picture within the meaning of the statute is not necessarily a photograph, but includes any representation of